IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

Bail Appl..No. 1328 of 2007()

O.R.5/2007 OF FOREST RANGE OFFICE, THAMARASSERI

PETITIONER/ACCUSED

ABDURAHIMAN HAJI, AGED 50 YEARS,
S/O ALIKUNHU, THAROL HOUSE,
KAYALAM, MAVOOR PANCHAYAT,
KOZHIKODE DISTRICT.

BY ADV. SRI.M.ASOKAN
SRI.DEVAPRASANTH.P.J.

RESPONDENTS: COMPLAINANT:

STATE OF KERALA, REPRESENTED BY
FOREST RANGE OFFICE-THAMARASSERI,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

Bail Application No. 1328/2007

Dated this 21st day of March, 2007

O R D E R

The petitioner, who is the accused in O.R.No.5/2007 of Forest Range Office, Thamarassery for offences punishable under Sections 27(1)(b) of the Kerala Forest Act. 1961, Rule 3 (iii) of the Kerala Forest Produce Transit Rules, 1975 and Section 4 of the Kerala Promotion of tree growth in non-forest areas (amendment) Ordinance, 2006, seek anticipatory bail.

2. The learned Public Prosecutor opposed the application.

3. The learned counsel for the petitioner submitted that 5.2 Kgms of wet sandalwoods, 6.2 Kgms of sandalwood chips and two stumps which were really standing in the property of the petitioners were seized, which justify the invocation of Section 4 of the Kerala Promotion of tree growth in non-forest areas (amendment) Ordinance, 2006, and the prosecution does not have a consistent case.

4. The learned Public Prosecutor, on the other hand,

submitted that Section 4 of the said Act was wrongly mentioned and it is sought to be deleted and that the sandalwood pieces were not portions of any sandalwood trees in the property of the petitioner and that the absence of any stumps of sandalwood trees and the inability of the family members of the petitioner to explain for the possession of sandalwoods in the house of the petitioner falsifies the petitioner's case.

5. It is too early to consider which of the versions are true. Anticipatory bail cannot be granted in a case of this nature. But at the same time, I am inclined to permit the petitioner to surrender before the Investigating Officer namely Forest Range Officer, Thamarassery, for the purpose of interrogation and then to have his application for regular bail considered by the Magistrate concerned.

6. Accordingly the petitioner is directed to surrender before the Investigating Officer on any date between 27.3.2007 and 29.3.2007 for the purpose of interrogation and recovery of incriminating materials if any. The petitioner shall thereafter, be produced on the same day before the Magistrate concerned, who shall consider and dispose of the application if any, filed by

the petitioner for regular bail preferably on the same day on which it is filed.

The application is disposed of as above.

V.RAMKUMAR,
JUDGE

mrcs